

FORM 41: Confirmatory Order Settling Civil Penalty Imposed by Order

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket No. _____
<u>(LICENSEE)</u>)	License No. _____
<u>(City, State)</u>)	EA-YY-XXX

CONFIRMATORY ORDER MODIFYING ORDER
IMPOSING CIVIL PENALTY

I

[Double space from here to end, except single space title of signing official.]

[This section should include the normal introductory discussion for an order. The following example is provided as a sample discussion for this section.]

[(Name of licensee) (Licensee) is the holder of a Byproduct Material License issued by (Agreement State) which authorizes the Licensee to use byproduct material for (authorized use(s)). Pursuant to 10 CFR 150.20, on (date), the Licensee was working at a field site in (specify the location of the work that took place in NRC jurisdiction).]

II

[This section should indicate the date of the inspection, the violation(s), the date and amount of the Notice of Violation and Proposed Imposition of Civil Penalty, a brief summary of the licensee's response, the date and amount of the Order Imposing Civil Monetary Penalty, and the general terms of the proposed settlement. The following example is provided as a sample discussion for this section]

[On (date), a written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of \$7,500 was served upon the Licensee for a violation involving failure to perform an adequate survey of the entire circumference of a radiography device in accordance with 10 CFR 34.43 while conducting activities on (date) in (location of NRC jurisdiction). In its response dated _____, the Licensee did not deny the violation, but requested remission of the civil penalty.

After consideration of the Licensee's response, the NRC issued an Order Imposing a Civil Monetary Penalty (Order) to the Licensee on (date) in the full amount proposed. The Licensee has not paid the civil penalty and has indicated in a letter dated _____ that it would agree to cease activities in NRC jurisdiction for a period of 3 years if the fine were abated.]

III

[This section should discuss the terms of the settlement. The following is provided as a sample discussion for this section.]

[The Order dated _____ imposed a civil penalty that is still outstanding. As the parties desire to resolve all matters pending between them, the Licensee, through its President Mr./Ms. _____ has entered into a settlement agreement with NRC executed on (date). Under the terms of the Settlement Agreement, NRC withdraws the civil penalty in the amount of \$7,500 imposed by Order dated _____. Under the terms of the Settlement Agreement, Mr./Ms./or Licensee _____ agrees that for a period of three years from the date (s)he signs this Confirmatory Order: (1) neither (s)he, nor the Licensee, nor any successor entity wherein Mr./Ms. _____ is an authorized user, radiographer, radiographer's assistant, Radiation Safety Officer, Assistant Radiation Safety Officer, or an officer or controlling stockholder, shall apply to the NRC for a license; and (2) neither Mr./Ms. _____, nor the Licensee, nor a successor entity as described in (1) above, shall engage in licensed activities within the jurisdiction of the NRC for that same period of time.]

IV

¹Accordingly, pursuant to sections 81, 161b, 161i, 186, and 234 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 2.205, and 10 CFR Parts 30, 34, and 150, IT IS HEREBY ORDERED THAT:

1. The NRC withdraws the civil penalty in the amount of (\$ amount) imposed by Order dated ____.
2. For a period of three years from (date that Settlement Agreement was signed) :
 - (a) neither Mr./Ms. _____, nor (name of licensee), nor any successor entity wherein Mr./Ms. _____ is an authorized user, [radiographer, radiographer's assistant], Radiation Safety Officer, Assistant Radiation Safety Officer, or an owner or controlling stockholder, shall apply to the NRC for a license; and
 - (b) neither Mr./Ms. _____, (name of licensee), nor a successor entity as described in (a) above, shall engage in licensed activities or exercise any control over licensed activities within the jurisdiction of the NRC for that same period of time.
3. If Mr./Ms. _____, (name of licensee), or a successor entity violates paragraph 2. of this section of the Confirmatory Order, then the remaining unpaid civil penalty amount shall be due and payable by Mr./Ms. _____ immediately and without further notice.

FOR THE NUCLEAR REGULATORY COMMISSION

_____, Director
Office of Enforcement

¹Include "104b" if any of the licenses subject to the order were issued under 104b.

Dated this ____ day of (Month) 20(XX)